

5427

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 404-521-9900

THE CANDLER BUILDING
127 PEACHTREE STREET, SUITE 605
ATLANTA, GA 30303-1840

Facsimile 404-521-9909

April 9, 2013

VIA ELECTRONIC MAIL (r4foia@epa.gov) AND U.S. MAIL

U.S. Environmental Protection Agency
Region 4 Freedom of Information Officer
SNAFC Building, 61 Forsyth St., S.W., 9th Floor
Atlanta, Georgia 30303-8960

**RE: Freedom of Information Act (FOIA) Request – Documents Pertaining to
NPDES Permits for Several Facilities in Savannah River Basin**

To Whom It May Concern:

Pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, the Southern Environmental Law Center ("SELC") requests documents in the possession of the United States Environmental Protection Agency ("EPA") relating to the National Pollutant Discharge Elimination System ("NPDES") permits issued to the following facilities:

- 1) DSM Chemicals North America, Inc. in Richmond County, GA (NPDES No. GA0002160);
- 2) PCS Nitrogen Fertilizer LP in Richmond County, GA (NPDES No. GA0002071);
- 3) EMD Chemicals Inc. in Chatham County, GA (NPDES No. GA0034355);
- 4) BASF Corp. in Chatham County, GA (NPDES No. GA0048330);
- 5) International Paper – Augusta Mill in Richmond County, GA (NPDES No. GA0002801);
- 6) Georgia-Pacific Consumer Products LP in Effingham County, GA (NPDES No. GA0046973);
- 7) International Paper – Savannah Complex in Chatham County, GA (NPDES No. GA0001988);

- 8) Weyerhaeuser NR in Chatham County, GA (NPDES No. GA0002798);
- 9) Georgia Power's Plant McIntosh in Effingham County, GA (NPDES No. GA0003883); and
- 10) Georgia Power's Plant Kraft in Chatham County, GA (NPDES No. GA0003816).

Regarding these facilities, we seek production of the following documents in the possession of the EPA:

- 1) The current National Pollutant Discharge Elimination System ("NPDES") permit, and any agency narrative, rationale, statement of basis, correspondence, and other documents accompanying issuance of the permit;
- 2) Any applications for issuance and/or reissuance of the facility's NPDES permit;
- 3) Any documents pertaining to EPD's administrative extension and/or reissuance of the facility's NPDES permit, including any draft permits;
- 4) All correspondence, including electronic correspondence, between EPA, EPD and/or the facility concerning the status of its NPDES permit and/or its application for renewal of its NPDES permit from 2001 to present day;
- 5) Any consent decrees/settlements concerning alleged violations of the Clean Water Act and/or Georgia Water Quality Control Act;
- 6) Any documents concerning any pollution control equipment installed at the facility over the past ten years; and
- 7) Any engineering assessment reports, studies, bioassessments or water quality assessments pertaining to the facility.

For the purposes of this request, the term "documents" includes all written, printed, recorded or electronic materials, communications, correspondence, memoranda, notations, copies, diagrams, charts, maps, photographs, tables, spreadsheets, formulas, directives, observations, impressions, contracts, letters, messages and mail in the possession or control of the EPA, in final or draft form.

FOIA directs a responding agency to make a "determination" on any request within twenty (20) working days of receipt. See 5 U.S.C. § 552(a)(6)(A)(i). FOIA also requires the release of all reasonably segregable portions of a document that are themselves not exempt. 5 U.S.C. § 552(b). Should our requests be denied, we request that you inform us of the grounds

for denial and the specific administrative appeal rights which are available. See 5 U.S.C. § 552(a)(6)(A)(i).

SELC is requesting photocopies without charge, or at a reduced charge, because reduction or waiver of fees would be in the public interest. A disclosure is in the public interest if (1) it is likely to contribute significantly to public understanding of the operations or activities of the government, and (2) it is not primarily in the commercial interest of the requester. The public interest standard of the fee waiver provision of the FOIA should be "liberally construed" in favor of waivers. McClellan Ecological Seepage Situation v. Carlucci, 835 F.2d 1282, 1284 (9th Cir. 1987); Pederson v. Resolution Trust Corp., 847 F. Supp. 851, 855 (D.Colo. 1994); Etlinger v. FBI, 596 F. Supp 867, 872 (D. Mass. 1984). The goal of the statute is to avoid the "roadblocks and technicalities which have been used by various Federal agencies to deny waivers" Pederson, 847 F. Supp. at 855.

SELC is a 501(c)(3) non-profit organization with over 20 years of experience disseminating public information regarding EPA's regulatory and operations issues. See 5 U.S.C. § 552 (a)(4)(A)(iii). SELC maintains a website that includes both general and topic-specific information regarding the matters with which SELC is involved. For example, SELC frequently publishes reports and issues press releases regarding its projects. See <http://southernenvironment.org/newsroom/>. SELC's website contains documents generated by SELC for the specific purpose of educating the public on particular issues. See, e.g., <http://www.southernenvironment.org/air/>. SELC also assists the public in locating information relating to a particular topic by collecting and posting relevant information, documents, and links to other websites. See, e.g., http://www.southernenvironment.org/issues/air/fighting_coal_plants/.

All of this information is available for free to any interested member of the public. SELC staff members also educate the public by speaking at conferences and other public meetings about environmental and natural resource issues in the Southeast. A fee waiver clearly will benefit the general public through increased notice and understanding of the operations of the government and of potential or proposed major policy incentives. SELC further certifies that disclosure of the information sought is not primarily in the commercial interest of the requester.

Should SELC's request for reduced or waived fees be denied, SELC is prepared to bear the reasonable duplication and search costs necessary to fulfill this request. However, I request you contact me before processing this request if the fee is expected to be in excess of \$100. SELC reserves its right to appeal a fee waiver or reduction denial.

If you have any questions regarding this request, please feel free to call me at (404)-521-9900. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katie C. Ottenweller', written in a cursive style.

Katie C. Ottenweller
Staff Attorney

- The request changes have been successfully saved.

Request Details

Status : Initial Evaluation Due Date : 05/13/2013

0

Submitted Evaluation Assignment Processing Closed

Tracking Number : EPA-R4-2013-005427	Request Type : FOIA
Requester : Ms. Katie C. Ottenweller	Request Track : Simple
Organization : Southern Environmental Law Center	Submitted Date : 04/09/2013
Requester Has Account : No	Due Date : 05/13/2013
Email Address : N/A	Assigned To : Region 4
Phone Number : 404-521-9900	Last Assigned Date : 04/12/2013
Fax Number : 404-521-9909	Last Assigned By : N/A
Address : 127 Peachtree Street, Suite 605 The Candler Building	Fee Limit : \$25.00
City : Atlanta	
State/Province : GA	
Zip Code/Postal Code : 30303-1840	

Submission Details Case File Admin Cost Assigned Tasks Comments Review

Request Handling

Requester Info Available to the Public : Yes <input type="checkbox"/>	Request Perfected : Yes
Request Track : Simple <input type="checkbox"/>	Perfected Date : 04/15/2013
Fee Category : Select Fee Category <input type="checkbox"/>	Acknowledgement Sent Date : 4/15/13 <input type="checkbox"/>
Fee Waiver Requested: Yes	Unusual No
Fee Waiver Status: Pending Decision	Circumstances ? :
Expedited Processing No Requested :	5 Day Notifications: <input type="checkbox"/>
Expedited Processing N/A Status :	Litigation : No <input type="checkbox"/>

Request Description

Short Description :		
documents pertaining to NPDES Permits for several facilities in Savannah River Basin		
Description Available to the Public : Yes <input type="checkbox"/>	Has Request Been Modified? <input checked="" type="checkbox"/>	106/2000
documents pertaining to NPDES Permits for several facilities in Savannah River Basin SEE ATTACHED REQUEST		

Attached Supporting Files

Attachments Available to the Public : Yes ☐